

DIEGO CONDE, OSB No. 110917
E-Mail: dconde@condelawgroup.com
Conde Law Group PC
385 First Street, Suite 221
Lake Oswego OR 97034
Phone: 971-373-8921
Fax: 503-505-6240

Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

**JESUA CHACON-SANCHEZ, as personal
representative of the ESTATE OF
MAGDIEL CHACON-SANCHEZ,**

Plaintiff,

vs.

KZ TRANSPORTATION LLC, a Texas
business entity,
BSE TRAILER LEASING LLC, a
Tennessee business entity,
FEISAL K. OMAR, a nonresident individual,
X COMPANY, a fictitious name given to a
defendant of unknown identity,

Defendants.

Case No.

COMPLAINT

Personal Injury Action – 28 USC §1332;
Negligence

DEMAND FOR JURY TRIAL

Plaintiff alleges:

JURISDICTION

1.

The claims asserted herein arise under negligence.

//// //// ////

2.

This Court has original jurisdiction over this controversy pursuant to 28 U.S.C. §1332 (diversity of citizenship), as the matter in controversy exceeds, exclusive of interest and costs, the sum of \$75,000, and Plaintiff is a citizen of the State of Oregon while Defendants are residents of a different State.

3.

Proper venue for this action is in the State of Oregon pursuant to 28 U.S.C. §1391(a)(1)-(2), §1391(b)(1) and (2) and §1391(c)(2) because a substantial part of the events or omissions giving rise to the claim occurred in the State of Oregon. Alternatively, while citizens of different states, Defendants' contacts with this venue would be sufficient to subject them to personal jurisdiction.

PARTIES

4.

At all times material, JESUA CHACON-SANCHEZ, was and is a resident of the State of Oregon and personal representative of the ESTATE OF MAGDIEL CHACON-SANCHEZ, a deceased individual who was a resident of the State of Oregon.

5.

At all times material, Defendant KZ TRANSPORTATION LLC, was a Texas business entity doing substantial business for profit in the State of Oregon as an interstate trucking carrier. As the carrier it had the exclusive possession, control and use of the 2005, blue, Freightliner tractor truck with VIN 1FUJA6AV25LN92871 (Freightliner), Texas license plate R42-7068, and the trailer identified as KR211689, with Tennessee license plate 941095, subjects of this Complaint.

6.

At all times material, Defendant BSE TRAILER LEASING LLC, was the owner and lessor of the Hyundai trailer being hauled by the Freightliner identified above, and identified as KR211689, with Tennessee license plate 941095.

7.

At all times material, Defendant FEISAL K. OMAR was the owner and operator of the semi-truck identified in Paragraph 5, and hauling the trailer identified in Paragraph 6.

8.

At all times material, Defendant X COMPANY, was the shipper or broker of products, items and/or services that contracted with defendant KZ TRANSPORTATION LLC to carry its products to or across the State of Oregon.

FIRST CLAIM FOR RELIEF

(Negligence)

9.

Plaintiff realleges and incorporates by reference herein Paragraphs 1-8 above.

10.

At all times material, Defendant KZ TRANSPORTATION LLC was a carrier and owner of the Freightliner described above, and which was being used in furtherance of Defendants corporate business and financial gain.

11.

At all times material, Defendant FEISAL K. OMAR was the driver of the semi-truck and trailer identified in Paragraphs 5 and 6, and was working in the course and scope of his employment, or contractual duties to defendant KZ TRANSPORTATION LLC, including observance of due care in the operation of the semi-truck and trailer, and respect of the laws and

regulations of the State of Oregon, the Department of Transportation (DOT) and the Federal Motor Carrier Safety Administration (FMCSA).

12.

At all times material, MAGDIEL CHACON-SANCHEZ was the driver of a 2000, Toyota Echo sedan. He was 21 years old. He was gainfully employed and well regarded in the Portland community.

13.

At all times material, Interstate 84 was and is a public highway within the State of Oregon.

14.

On June 21, 2019, at approximately 7:39 p.m., Defendant FEISAL OMAR was driving the semi-truck and trailer identified above westbound on Interstate 84, in the middle lane, near the NE 122ND Avenue in Portland. Behind the semi-truck and trailer, on the same lane, MAGDIEL CHACON-SANCHEZ was also driving his Toyota Echo westbound on Interstate 84.

15.

While transiting in the place and manner described in the paragraph above, the trailer hauled by FEISAL OMAR had no functioning taillights.

16.

At this same time, MAGDIEL CHACON-SANCHEZ was traveling with the flow of traffic at freeway speed.

/// /// ///

17.

While on Interstate 84, at or near NE 122ND Avenue in Portland, FEISAL OMAR failed to notice slowing or stopped traffic ahead with enough time to bring his semi-truck to a stop in a gradual and reasonably safe manner.

18.

While on Interstate 84, at or near NE 122ND Avenue in Portland, FEISAL OMAR pressed the brakes hard to abruptly stop the semi-truck and trailer in order to avoid colliding with the stopped traffic ahead.

19.

Smoke was seen coming from under the Freightliner as it came to a quick stop.

20.

The Freightliner left skid marks on the pavement as it came to a stop.

21.

Even though Defendant FEISAL OMAR pressed hard on the brake pedal, the Freightliner's brake lights did not activate or illuminate.

22.

MAGDIEL CHACON-SANCHEZ crashed his car into the rear of the trailer being hauled by FEISAL OMAR's semi-truck.

23.

Upon investigation from Portland Police Bureau Major Crash Team's lead investigator, it was determined that at the time of the collision the trailer's rear lights, including the brake lights, did not function.

/// /// ///

24.

As a direct, proximate, and foreseeable result of the collision, MAGDIEL CHACON-SANCHEZ sustained serious and fatal injuries. He died at the scene of the crash.

25.

ALL defendants, themselves or by and through the acts and omissions of FEISAL OMAR, were negligent in one or more of the following particulars, each of which creating a foreseeable and unreasonable risk of injury to MAGDIEL CHACON-SANCHEZ:

- a. In operating a tractor-trailer without functioning taillights (negligence per se, ORS 816.080, 49 CFR Secs. 393.11, 393.25);
- b. In operating a tractor-trailer without functioning brake lights (negligence per se, ORS 816.100, 49 CFR Secs. 393.11, 393.25);
- c. In failing to inspect and maintain the trailer's taillights and brake lights in safe and proper operating condition at all times (negligence per se, 49 CFR Sec. 396.3)
- d. In failing to signal a stop with lights (negligence per se, ORS 811.405)
- e. In failing his duty to keep and operate a safe vehicle (negligence per se, ORS 815.020);
- f. In failing to keep a proper lookout under the circumstances then and there existing;
- g. In needlessly driving at an unsafe speed considering the circumstances of traffic, road conditions and weight of his truck-trailer; and
- h. In failing to maintain control of the semi-truck and trailer.

26.

Defendants KZ TRANSPORTATION LLC and BSE TRAILER LEASING LLC, in addition to the charges of negligence above, are directly and independently negligent in one or more of the following particulars, each of which creating a foreseeable and unreasonable risk of injury to MAGDIEL CHACON-SANCHEZ:

- a. In leasing and operating a tractor-trailer without functioning taillights (negligence per se, ORS 816.080, 49 CFR Secs. 393.11, 393.25);
- b. In leasing and operating a tractor-trailer without functioning brake lights (negligence per se, ORS 816.100, 49 CFR Secs. 393.11, 393.25);
- c. In failing to inspect and maintain the trailer's taillights and brake lights in safe and proper operating condition at all times (negligence per se, 49 CFR Sec. 396.3)
- d. In not performing those duties identified in 49 CFR Sec.23, and other reasonable measures to ensure the driver of the tractor-trailer was qualified to safely inspect, maintain and operate said tractor-trailer;

27.

As a result of one or more of the negligence charges in Paragraphs 25 and 26 committed by one or more of the Defendants, MAGDIEL CHACON-SANCHEZ sustained fatal injuries to his body and died on June 21, 2019 at the age of 21.

28.

As a result of the negligence of Defendants, the ESTATE OF MAGDIEL CHACON-SANCHEZ sustained the following economic damages:

- a. Reasonable and necessary burial and memorial services rendered to the decedent in the approximate sum of **\$5,000**;
- b. Loss to the decedent's estate, estimated to be **\$2,761,058**;
- c. Loss to the decedent's parents for the loss of the society, companionship and services of the decedent, estimated to be **\$639,169**;

All to THE ESTATE's economic damages in an amount to be determined by the jury to be fair and reasonable, but not to exceed the sum of **\$3,405,226**.

WHEREFORE, Plaintiff JESUA CHACON SANCHEZ, as personal representative of the ESTATE of his brother MAGDIEL CHACON-SANCHEZ prays for relief from the Court as follows:

1. Assume jurisdiction in this matter over Plaintiff's claims;
2. Award Plaintiff judgment against Defendants for economic damage in an amount determined by the jury to be fair and reasonable, but not to exceed the sum of **\$3,405,226;**
3. Award Plaintiff his costs and disbursements incurred herein;
4. Award Plaintiff any other relief the Court deems appropriate.

Dated: June 17, 2022.

CONDE LAW GROUP PC

By: s/ Diego Conde
Diego Conde, OSB No. 110917
Trial Attorney
Of Attorneys for Plaintiff